

FILED
U.S. DISTRICT COURT
BOSTON, MASSACHUSETTS

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

STEPHEN HODGES DBA GEEK CHOICE)	CIVIL ACTION No.
)	
Plaintiff,)	
)	
v.)	
)	
UZ AUTO TRANS, INC.)	
)	
<u>Defendant.</u>)	

COMPLAINT FOR

**1) FRAUDULENT COURT CASE DEFENSE, 2) DEFAMATION 3) TRADE LIBEL 4)
INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**

NOW COMES Plaintiff Stephen Hodges DBA Geek Choice, Plaintiff, hereby alleges as follows:

PRELIMINARY STATEMENT

By this Complaint, Plaintiffs seek injunctive relief, damages, and other remedies provided for in law to remedy injuries caused by Defendant UZ Auto Trans, Inc.'s conduct of filing a fraudulent court case, defaming Plaintiffs, placing Plaintiffs in a false light with their colleagues and customers, and interfering with future and current business relations.

Plaintiff Stephen Hodges DBA Geek Choice is a computer service and repair company. Geek Choice is a registered/licensed trade name doing business nationwide since 1996.

This case arises from a transaction that took place on May 13, 2015. Geek Choice serviced UZ Auto Trans, Inc.'s computer system.

Defendant UZ Auto Trans, Inc. refused to pay for service and was abusive to both the technician and Geek Choice staff.

Plaintiff Geek Choice attempted to mediate the problem so as to satisfy the customer and avoid collection efforts against UZ Auto Trans, Inc. Plaintiff won a judgment against UZ Auto Trans, Inc. and has spent considerable time and money in an attempt to collect on this judgment.

When UZ Auto Trans, Inc. lost the case they filed a fraudulent case costing Geek Choice considerable time and money.

Additional action included a fraudulent Better Business Bureau (BBB) review. When Defendant UZ Auto Trans, Inc. lost the case they proceeded to post a fictitious negative review on the review site bbb.org as "Don L." known to us as Don Lemmerman, an employee at UZ Auto Trans, Inc. Mr. Lemmerman's review claims that we quoted a specific price for the job which we did not do per our recorded call. They further claimed the technician did nothing while waiting for the data transfer which is contrary to the technician job report.

On October 22, 2015 UZ Auto Trans, Inc. posted a fictitious negative review per Exhibit A to this complaint on bbb.org about Geek Choice.

Plaintiff Geek Choice responded to the review and notified bbb.org. bbb.org cannot take sides and advised Geek Choice to either get a court order or spend money on membership fees and resolution fees to "bury" the review. However, the damage was done and continues. The damages to Geek Choice are mounting as Defendant UZ Auto Trans, Inc.'s actions have reduced business for Geek Choice, which it appears is Defendant UZ Auto Trans, Inc.'s intent.

PARTIES

Plaintiff Stephen Hodges DBA Geek Choice is a resident of Massachusetts existing under the laws of the State of Massachusetts, with his principal place of business in the State of Massachusetts.

Plaintiffs are informed and believe that Defendant is a corporation that resides in Commerce City, Colorado. Upon information and belief, Defendant may still be found in said District.

JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. §1331.

Plaintiff Stephen Hodges resides in Massachusetts.

The amount in controversy exceeds \$3,000.

This is a civil action seeking damages and injunctive relief for 1) Fraudulent court action, 2) Defamation 3) Trade Libel 4) Intentional Interference with prospective economic advantage.

Venue is proper in this district under 28 U.S.C. §1391(b) in that Defendants are subject to personal jurisdiction in this district, a substantial part of the events giving rise to the claim occurred in this district, and Defendant targeted harm and injury to Plaintiff Geek Choice who is a business in this district.

FACTUAL BACKGROUND

Plaintiff Geek Choice serviced UZ Auto Trans, Inc. computer system including data migration, hardware repair, virus and spyware removal, and other services.

On May 13, 2015 Geek Choice repaired UZ Auto Trans, Inc.'s computer and migrated data and attempted to collect money for this service. In retaliation UZ Auto Trans, Inc. created a fraudulent claim per Exhibit B.

Defendant UZ Auto Trans, Inc. complained the job was incomplete which is because our technician was forced to terminate the job by UZ Auto Trans, Inc. Our technician also performed installation of other programs and gave UZ Auto Trans, Inc. technical advice for future issues. UZ Auto Trans, Inc. refused to pay the bill.

When Defendant UZ Auto Trans, Inc. realized that Geek Choice expected to be paid for an extensive data migration and computer repair job UZ Auto Trans, Inc. posted a fictitious negative review. This review went on Geek Choice's profile on the consumer review site bbb.org. Reviews were posted as "Don L.". UZ Auto Trans, Inc. claimed that they hired Geek Choice for a fixed fee which Geek Choice has never done for data migration.

On October 22, 2015 UZ Auto Trans, Inc. posted a fictitious negative review per Exhibit A to this complaint on bbb.org. Geek Choice have since responded to this review however bbb.org does not take sides and Geek Choice must now seek court action to remove this fraudulent review.

On October 6, 2015 Plaintiff Matthew Mackey spoke with an employee at UZ Auto Trans, Inc. over the phone about both the unpaid bill and the fraudulent negative review to request that UZ Auto Trans, Inc. pay the bill and remove the fraudulent negative review. The employee said "F' You" and hung up the phone. UZ Auto Trans, Inc. was reticent about this matter. Two attempts to call UZ Auto Trans, Inc. were made since then to which UZ Auto Trans, Inc. remained unresponsive.

FIRST CAUSE OF ACTION

(Fraudulent Court Case Defense)

When Defendant UZ Auto Trans, Inc. lost the small claims case against them Plaintiff Geek Choice attempted to mediate the problem so as to satisfy the customer and avoid collection efforts against UZ Auto Trans, Inc. UZ Auto Trans, Inc. created a fraudulent claim per Exhibit B.

When UZ Auto Trans, Inc. lost the case they filed a fraudulent case costing Geek Choice considerable time and money.

UZ Auto Trans, Inc. alleges that they had to purchase a computer plus labor due to Geek Choice's negligent technician. UZ Auto Transport, Inc. terminated the job before the data was copied because they did not want to pay for more than an hour of service. The job involved setup of a new PC and data transfer from old PC to new PC. The date of service was May 13, 2015. UZ Auto Trans, Inc. in their complaint alleges "We were unable to fix so we had to purchase a new computer." However the purchase date of this computer was on May 2, 2015 per plaintiff's receipt Exhibit B which is 11 days prior to the date of service on May 13, 2015. This receipt was obtained from an email (exhibit C) from Don Lemmerman, Claims Manager at UZ Auto Trans Inc.

Interestingly the invoice for labor from Turon, LLC (exhibit D) is another Auto Transportation company.

Geek Choice had to pay paralegal Andrew Lewis \$800.00 to prepare a defense for the fraudulent court case plus an additional \$200.00 for an employee of Geek Choice to represent Geek Choice in court.

SECOND CAUSE OF ACTION

(Defamation)

Plaintiff re-alleges each and every allegation set forth in paragraphs above, inclusive, and incorporates them as though fully set forth by this reference herein.

Defendant UZ Auto Trans, Inc. published one or more written false statements which were intended to impeach Plaintiff's honesty, integrity, virtue or reputation.

Plaintiff is not a public figure.

The false statements made by Defendants regarding Plaintiffs, the slurs on Plaintiff's reputation by Defendants, the statements made by Defendants regarding business transactions that did not take place or were incorrect, and the assertions of false statements as facts, defamed Plaintiffs.

Plaintiff has attempted to remove the fraudulent reviews from bbb.org utilized by Defendants.

Plaintiff has been advised by bbb.org that Plaintiff has two options for review removal. The first option is to purchase a membership and pay additional fees for resolution services which would effectively bury the review. The second option is to get a court order.

The defamatory statements resulted in damages that have been and continue to be incurred by Plaintiffs.

THIRD CAUSE OF ACTION

(Trade Libel)

Plaintiff re-alleges each and every allegation set forth in above paragraphs, inclusive, and incorporates them as though fully set forth by this reference herein.

Defendant UZ Auto Trans, Inc. published one or more written false reviews on bbb.org which were intended to impeach Plaintiffs' honesty, integrity, virtue or reputation.

Defendant UZ Auto Trans, Inc. made the statements knowing of the falsity.

Specifically, Defendant UZ Auto Trans, Inc. had made a negative review about service that was factually incorrect and fabricated to make Geek Choice look as bad as possible. The review was untrue and unsupported.

Specifically, at no time did Defendant UZ Auto Trans, Inc. attempt to resolve this matter amicably with mediation despite numerous attempts by Plaintiff to arrange for a meeting or phone call.

Plaintiffs business has been damaged due to this review.

The false statements made by Defendants regarding Plaintiffs are assertions of false facts, and the posting of false communications with the purpose of impacting Plaintiffs business.

FOURTH CAUSE OF ACTION

(Intentional Interference with Prospective Economic Advantage)

Plaintiff re-alleges each and every allegation set forth in above paragraphs, inclusive, and incorporates them as though fully set forth by this reference herein.

Plaintiff Geek Choice does most of its business through the internet and relies heavily on bbb.org as bbb.org is now an authoritative directory for consumers.

Geek Choice had 11 customers per month locate them through bbb.org to arrange for computer service and repair. As a result of UZ Auto Trans, Inc.'s fictitious negative October 22, 2015 review Geek Choice's customers from the BBB decreased to five. Six customers times \$315.00 average BBB billable times five months totals \$9,450.00 in lost business. Additionally typical repeat business within that period is approximately one third of the new business with an additional \$300 in revenue. Therefore lost repeat business was 3 times \$300.00 average BBB billable times five months which totals \$4,500.00.

Defendant UZ Auto Trans, Inc. knew that Plaintiff relies upon customer reviews for prospective customers and works hard to fix any issues to prevent or fix negative reviews. 100% of Geek Choice's negative reviews have been fixed by satisfying the customer.

Defendant UZ Auto Trans, Inc. writes "We hired this company to come in and do some data transfer on a computer in office. They quoted us a specific price to do the job. The tech came in and just did a copy paste and sat there on phone watching computer transfer files. Then said the charge would be more and they needed more time. We told them we would only pay original amount discussed. We gave them check for original amount they decided to do an electronic debit from our bank of the amount that they wanted to be paid so we put stop payment on that. We then realized that computer they were working on did not work anymore and was locked out. We spent money with other company to fix what they did but now are left with an unusable computer. DO NOT TRUST THESE GUYS." Per recorded Geek

Choice did not quote a specific price for this job and never has. The tech had to remove large amounts of viruses and spyware and fix a hardware issue in order to initiate the copying process. The data migration was not a simple copy and paste either as complicated user profile issues and other hidden files and directories needed to be retrieved in order for the computer to work correctly.

Defendant UZ Auto Trans, Inc.'s statements were made in order to disrupt the relationships that Plaintiff Geek Choice has with their current and prospective customers.

Defendant UZ Auto Trans, Inc. intended to engage in the wrongful conduct of defamation when they posted the statements that they made regarding Plaintiffs.

Plaintiff Geek Choice's bbb.org traffic has significantly dropped in conjunction with UZ Auto Trans, Inc.'s fraudulent negative review and business referrals from bbb.org have been and continue to be disrupted.

Plaintiff Geek Choice was harmed by this disruption, in that Plaintiff Geek Choice was unable to service and repair computers and has been damaged as a result as a direct result of Defendants' wrongful, defamatory statements.

PUNITIVE DAMAGES

Plaintiff re-alleges each and every allegation set forth in above paragraphs, inclusive, and incorporates them as though fully set forth by this reference herein.

Defendant UZ Auto Trans, Inc. published one or more written false statements which were intended to impeach Plaintiffs honesty, integrity, virtue or reputation.

Plaintiff is not a public figure.

The false statements made by Defendants regarding Plaintiffs, the slurs on Plaintiff's reputation by Defendants, the statements made by Defendants regarding a business transaction that did not take place, and the assertions of false statements as facts, defamed Plaintiffs.

The statements made by Defendant UZ Auto Trans, Inc. were made with actual malice. Defendant UZ Auto Trans, Inc. intended to make the statements that they made, they knew that the

statements were false, and included facts about the service call that that never occurred. UZ Auto Trans, Inc.'s statements were made with the intent to disrupt and destroy Plaintiff's business.

The defamatory statements resulted in damages that have been incurred by Plaintiffs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray this Court enter a judgment against Defendants as to all counts of their complaint above as follows:

1. For entry of a Preliminary and Permanent Injunction preventing Defendant UZ Auto Trans, Inc. from disseminating any false and defamatory statements regarding Plaintiffs;
2. For entry of a Preliminary and Permanent Injunction preventing Defendant UZ Auto Trans, Inc. from assuming Plaintiffs name and identity in any manner;
3. For an Order requiring Defendant UZ Auto Trans, Inc. remove the false and defamatory reviews regarding Plaintiff published by Defendant UZ Auto Trans, Inc. from bbb.org;
4. For an Order requiring Defendant UZ Auto Trans, Inc. post a retraction of all of the false and defamatory statements regarding Plaintiffs published by Defendants UZ Auto Trans, Inc. as well as a written apology to be published on bbb.org;
5. For compensatory damages in excess of \$11,000.00;
6. For punitive damages;
7. For costs, interest and attorney's fees;
8. For any other relief that this Court deems just and proper.

Stephen Hodges DBA Geek Choice

Dated: July 7, 2016

By:



Stephen J. Hodges
265 Franklin St. Suite 1702
Boston, MA 02110
Phone: (617) 263-2282

EXHIBIT A

UZ AUTO TRANS, INC.

We hired this company to come in and do some data transfer on a computer in office. They quoted us a specific price to do the job. The tech came in and just did a copy paste and sat there on phone watching computer transfer files. Then said the charge would be more and they needed more time. We told them we would only pay original amount discussed. We gave them check for original amount they decided to do an electronic debit from our bank of the amount that they wanted to be paid so we put stop payment on that. We then realized that computer they were working on did not work anymore and was locked out. We spent money with other company to fix what they did but now are left with an unusable computer. DO NOT TRUST THESE GUYS.

This customer had a **NEGATIVE** experience with this business.

This customer **WOULD NOT** recommend the business to a friend, family member, neighbor or colleague.

10/22/2015 by Don L. on 10/22/2015 | Submit a Customer Review

BBB Verified Reviewer

Comments

X

Comment from the Business Geek Choice serviced this location for over 4 hours, at which point there was still work to do, in order to fully fix your issues it would take more time. instead the customer kicked my technician out and stopped payment on the check. Currently Geek Choice took ** **** to Court over this matter and WON the decision, which ** **** *efuses to pay the judgement. A warrant will soon be issued for the owners arrest if he does not comply with the courts order by on 4/26/2016

Source: <http://www.bbb.org/boston/business-reviews/computers-service-and-repair/geek-choice-in-boston-ma-74324/Customer-Reviews>

EXHIBIT B

UZ AUTO TRANS, INC.

TURON LLC
PO BOX 370314
DENVER, CO 80237
T: 303-745-0057
F: 303-416-4350
E-MAIL: turonllc@gmail.com

Invoice

Date	Invoice #
10/19/2015	1584

Bill to:

UZ AUTO TRANS, INC
5485 QUEBEC ST # 101
Commerce city, CO 80022
T: 303-872-3672/F: 303-974-2001

P.O. No.	Terms	Project
1584	quick pay	
Quantity	Description	Rate
	Locked out computer repair (Dell i3000 i5-4460): 1. Installation of Windows OS, OEM system builder pack 1. Installation of utilities and drivers 1. Migration of old data to a new computer	309.99 175.00 250.00
		TOTAL \$559.99

Please make checks payable to:

TURON LLC
Sent to: PO BOX 370314, Denver, CO 80237

Thank you

Micro Center

621 East Quincy Avenue
Denver, CO 80237
General Manager: Adrienne M. Tamm
(303) 302-6511

Reference: 161-HB 5972404
Date: 05/02/15 6:34 PM
Customer: SAMUEL TATEVOSYAN
ESK KIRA S.

SALES RECEIPT SALES RECEIPT

1 569205 DELL 13000 IS-4460/8/17.9	639.99
Sales ID: R MORRISSEY	
2 569205 DELL 13000 IS-4460/8/17.9	639.99
Sales ID: R MORRISSEY	
3 456730 LOGITECH WIRELESS COMPUTER/MOUSE	21.99
Sales ID: R MORRISSEY	
4 456026 Dell Inspiron 4700 2010 3-YEAR WAR	170.99
Sales ID: R MORRISSEY	
5 Dell Inspiron 4700 2010	78.99
Total Savings: 13.00	

Just this circ

SUBTOTAL	1,449.94
STATE TAX	47.12
CITY TAX	40.56
TOTAL	1,547.62

TRANSACTION: 498120 EXPRESS 1,547.62

*** YOUR TOTAL SAVINGS: 13.00

NOTEBOOK/LAPTOP COMPUTERS, DESKTOP COMPUTERS, MONITORS,
PROFESSOR'S NUMBERBOOKS, DIGITAL CAMERAS, COMPUTERS,
PROJECTORS AND LCD/DVD PROJECTORS MAY BE RETURNED WITHIN
5 DAYS OF PURCHASE. THE FOLLOWING ITEMS CANNOT BE RETURNED:
CD/DVD, SOFTWARE, DVDS, VHS AND CONSOLE GAME.
REFUNDS ON THESE ITEMS ARE NOT ALLOWED UNLESS THE ITEM IS DEFECTIVE.
PHONE: 1-800-446-6511
FAX: 1-800-446-6512